



**TERMS OF REFERENCE FOR  
THE PEACE AND SECURITY COUNCIL SUB-COMMITTEE ON SANCTIONS**

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**I. CONSIDERATIONS FOR A SANCTIONS REGIME**

1. In order to support the work of the Peace and Security Council in the imposition, assessment, monitoring, evaluation, as well as the lifting of the sanction measures, a Sub-Committee on Sanctions established pursuant, *inter alia*, to Article 8 (5) of the PSC Protocol, and paragraph 1 of the communiqué of the 178<sup>th</sup> meeting of the PSC, held on 13 March 2009 and paragraph 12 of the Assembly Decision [Ext/Assembly/AU/Dec.(XVI)] adopted by the 16<sup>th</sup> Ordinary Session of the Assembly of the African Union on Terrorism and Unconstitutional Changes of Government in Africa, on 28 May 2022, in Malabo, Equatorial Guinea.

2. The establishment of a Peace and Security Council Sub-Committee on Sanctions<sup>1</sup> in Africa is based on the following key considerations, among others:

- a) The persistence of the occurrence of unconstitutional changes of government and the menace this poses to the Continent's aspiration for the entrenchment of constitutional principles, democratic governance and the achievement of the aspirations of Agenda 2063;
- b) The fact that strict adherence to the principles of good governance, transparency and human rights and the strengthening of democratic institutions is likely to considerably reduce the risks of unconstitutional changes of government (UCGs) on the Continent;
- c) The importance of coordinating with other international actors to enhance wider buy-in of AU sanctions, as well as to ensure synergies between AU sanctions and sanctions imposed by the Regional Economic Communities/Regional Mechanisms (RECs/RMs) and by the United Nations (UN);
- d) The principle of subsidiarity and complementarity between the AU and RECs/RMs should guide the work of the Sub-Committee on Sanctions where the RECs/RMs primarily concerned with the Member State under sanctions is *willing and able to swiftly* lead on the process; in the absence of this, the Sub-Committee on Sanctions may rely mainly on the AU and its organs. The principle of complementarity does not invalidate the fact that the AU, through the PSC, has the primary and overall responsibility on issues of peace and security across the continent; and
- e) AU sanctions should be applied as part of a comprehensive strategy, encompassing mediation and technical support to assist the *de facto* authorities to restore constitutional order within the shortest possible time. All necessary efforts should be made throughout the period of the sanction, to avoid or minimize the effects of sanctions on the general population.

**II. OBJECTIVES AND PURPOSES**

3. The AU Sub-Committee on Sanctions shall have the following primary objectives:

- a) To gather reliable information on countries under sanctions or in a situation where the PSC consider imposing sanctions and advise the PSC accordingly;

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<sup>1</sup> The PSC Sub-Committee on Sanctions was established by communiqué of the 178<sup>th</sup> meeting of the PSC, held on 13 March 2009

- b) To coordinate with RECs/RMs, the UN and other entities with regard to imposed sanctions or those to be imposed on African countries and advise the PSC accordingly;
- c) To monitor and evaluate imposed sanctions in order to ensure that the Member States concerned adhere to the AU norms on democracy, constitutionalism and respect of constitutional procedures for accession to and preservation of political power or the timelines for restoration of constitutional order;
- d) To accompany *de facto* authorities emerging from UCG toward the timely and effective restoration of constitutional order;
- e) To clearly lay down the steps to be taken by the PSC and *de facto* authorities towards the restoration of constitutional order so as to standardise responses, ensure coherence and consistency, and institute clarity of procedures for the lifting of sanctions measures;
- f) To propose deterrent measures against UCG and other crimes as stipulated by the Constitutive Act and as corrective measures for intransigent *de facto* authorities, individual and/or entities violating constitutional mechanisms for the preservation of political office or entities violating or supporting the perpetration of acts that undermine constitutional order;
- g) To promote and encourage peaceful measures to resolve political differences, grievances and conflicts in the Continent.

### **III. LEGAL FRAMEWORKS FOR AU SANCTIONS**

4. The following AU normative and legal instruments provide the basis for AU Sanctions against unconstitutional changes of government and the Sub-Committee on Sanctions:

- a) The Constitutive Act of the African Union, particularly Article 30, which calls for the suspension from AU decision-making organs of member states whose government came to power by unconstitutional means;
- b) The Protocol Relating to the Establishment of the Peace and Security Council of the African Union;
- c) The African Charter on Human and Peoples' Rights and other relevant AU human rights instruments;
- d) The African Charter on Democracy, Elections and Governance, 2007;
- e) The Assembly Decision and Declaration on Terrorism and Unconstitutional Changes of Government, adopted by the 16<sup>th</sup> Extraordinary Session of the AU Assembly of Heads of State and Government, held on 28 May 2022 in Malabo, Equatorial Guinea;
- f) The AU Assembly decisions 269(XIV) of 02 February 2010;
- g) Decision Assembly/AU/Dec. 220 (XII) of the 12<sup>th</sup> Ordinary Session of the AU Assembly, held from 01 to 03 February 2009, on the resurgence of the scourge of coups d'état in Africa;

- h) Decision of the PSC adopted at its 178<sup>th</sup> meeting held on 13 March 2009 to establish a Committee on Sanctions in conformity with the above provisions of the PSC Protocol;
- i) The Declaration on the Framework for an OAU Response to Unconstitutional Changes of Government (the Lomé Declaration), of July 2000; and
- j) The Ezulwini Framework for the enhancement of the implementation of measures in situations of unconstitutional changes of government, December 2009.

#### **IV. STRUCTURE AND COMPOSITION**

- 5. The Sub-Committee on Sanctions is a subsidiary standing body of the Peace and Security Council established pursuant to Articles 7 (g) and 8 (5) of the PSC Protocol and within the broad framework of relevant AU instruments.
- 6. The Sub-Committee shall consist of the fifteen Members of the Peace and Security Council at the Experts level.
- 7. Due to the nature of its work, each Member State represented on the Council and, therefore, in the Sub-Committee, shall designate two experts, one being the substitute of the main expert, but both can attend to the workings of the Sub-Committee.

#### **V. TENURE AND MODALITIES OF CHAIRING AND SECRETARIAT**

- 8. The Chairperson of the Sub-Committee shall mirror the monthly rotational chairship of the PSC and the PSC Troika for continuity.
- 9. The Chairperson of the Sub-Committee or, in his or her absence, the incoming Chairperson shall convene and moderate meetings and report to the PSC on the activities of the Sub-Committee.
- 10. Should the Sub-Committee have to undertake a fact-finding mission in a Member State, it may be accompanied by the Chairperson of the PSC at the Ambassadorial level, who shall lead the delegation.
- 11. The Secretariat of the PSC shall serve as the Secretariat for the Sub-Committee.

#### **VI. MANDATE AND FUNCTIONS**

- 12. The Sub-Committee shall:
  - a) Receive assignments/mandates on specific situations from the PSC and serve as a technical Sub-Committee to assist the PSC on matters relating to sanctions;
  - b) Monitor political and socio-economic developments across the continent, in collaboration with the relevant units of the AU Commission, the Committee of Intelligence and Security Services in Africa (CISSA) and other relevant AU Organs/Institutions and RECs/RMs and, and make recommendations to the PSC on preventive measures against the occurrence of unconstitutional changes of governments and eventually the imposition of sanctions in a given situation considered;

- c) Monitor the implementation of sanctions measures imposed or endorsed by the PSC and make recommendations about the necessary adjustments and possible additional measures required to enhance their effectiveness;
- d) Seek from all Member States, RECs/RMs and partners, relevant information regarding the actions taken by them to implement sanctions measures imposed by the PSC, challenges facing imposed sanctions and whatever additional information it may consider useful in this regard;
- e) Examine information regarding alleged violations of sanctions measures imposed by the PSC and recommend appropriate action for the PSC's consideration;
- f) Identify individuals and entities to be included or removed from the list of targeted sanctions pursuant to the provisions of PSC decisions;
- g) Consider and recommend, upon request, lifting of sanctions measures as set out in the PSC decisions imposing the sanctions;
- h) Review regularly the list of individuals and entities designated for targeted sanctions by the PSC, with a view to keeping the list as updated and accurate as possible and confirm that the listing remains appropriate, and encourage Member States to provide any additional information whenever such information becomes available;
- i) Serve as the primary unit for informing Member States about the nature and requirements of the existing sanctions regimes and processes for inclusion and removal from existing lists;
- j) Report at least quarterly, or whenever needed, to the PSC on its activities and on the implementation of specific sanctions measures, including ways to strengthen the effectiveness of the sanctions' measures imposed by the PSC;
- k) Identify cases of non-compliance with the sanctions measures pursuant to PSC decisions and recommend the appropriate course of action on each case, for the attention of the PSC; and
- l) Report on any other matter in relation to Article 7(g) of the PSC Protocol, as directed by the PSC.

## **VII. WORKING MODALITIES**

13. The Sub-Committee carries out its general monitoring of political and socio-economic developments through regular engagements with relevant units of the AU Commission, CISSA and other appropriate AU and REC/RM organs and structures, but also by undertaking its own research and fact-finding/field missions to the countries concerned in order to collect accurate information and analysis.

14. The Sub-Committee shall reach its conclusions by consensus. However, should this prove difficult to reach, the majority views should be expressed along with dissenting views to allow the PSC to draw the final conclusions based on its decision-making procedures.

15. The Sub-Committee may, where necessary, invite or engage African civil society organisations, accredited to the AU, through the Economic, Social, and Cultural Council of the African Union (ECOSOCC), credible/independent think tanks/research centres/experts to assist in obtaining

information and may outsource to the latter the drafting of specific research papers/reports that may contribute to broadening the Sub-Committee's understanding of particular issues.

16. The Sub-Committee may propose its annual budget to the PSC that approves it and includes it in its own budget as a separate line.

17. The Secretariat of the PSC, in the AU Commission, assists the Sub-Committee in terms of accounting and financial management of its budget, as well as administrative and logistical support for its operations, including official travels of its members.

#### **VIII. MEETINGS**

18. The Sub-Committee shall meet as often as possible and whenever required or at the request of any Member State and on approval by a two-thirds majority of the Sub-Committee Members.

#### **IX. AGENDA**

19. The provisional agenda of the Sub-Committee shall be determined by the Chairperson of the Sub-Committee, in consultation with the Members of the Sub-Committee. The inclusion of any item in the provisional agenda may not be opposed by a Member State of the Sub-Committee.

#### **X. QUORUM**

20. The number of Members required to constitute a quorum shall be two-thirds of the total membership of the Sub-Committee.

#### **XI. ENTRY INTO FORCE**

21. These Terms of Reference shall enter into force upon the adoption by the Peace and Security Council of the African Union.